

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

RODNEY GOODLOE,

Plaintiff,

vs.

No. CIV 97-1579 JC/RLP

STATE OF NEW MEXICO, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER OF PARTIAL DISMISSAL

THIS MATTER came on for consideration of Defendants State of New Mexico and State of New Mexico Corrections Department's Motion to Dismiss on the Ground of Eleventh Amendment Immunity, filed May 11, 1998 (Doc. No. 14). The Court has reviewed the motion, the memoranda submitted by the parties, and the relevant authorities. The Court finds that the motion is well taken and will be granted.

Plaintiff is incarcerated in the Central New Mexico Correctional Facility in Los Lunas, New Mexico. Plaintiff was injured in a prison riot in December of 1995 and now sues numerous prison officials, the New Mexico Corrections Department ("Corrections Department") and the State of New Mexico for his injuries. The State of New Mexico and the Corrections Department move for dismissal on the ground of Eleventh Amendment immunity. I will grant the motion.

"The eleventh amendment generally bars lawsuits in federal court seeking damages against states as well as against state agencies, departments, and employees acting in their official capacity."

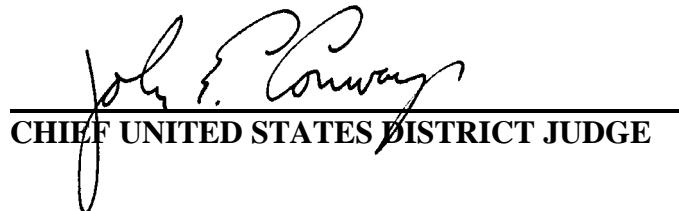
Bishop v. John Doe 1, 902 F.2d 809, 810 (10th Cir. 1990). The Corrections Department is an agency to which the Eleventh Amendment bar applies. Id.

Plaintiff's argument that New Mexico has waived its immunity is unavailing. "The fact that New Mexico judicially abolished general common-law sovereign immunity, and then, by statute, reinstated it in selected areas does not affect whether New Mexico enjoys Eleventh Amendment immunity from actions in federal court." Mescalero Apache Tribe v. New Mexico, 131 F.3d 1379, 1384 (10th Cir. 1997).

Wherefore,

IT IS HEREBY ORDERED that Defendants State of New Mexico and State of New Mexico Corrections Department's Motion to Dismiss on the Ground of Eleventh Amendment Immunity is **granted**. All claims against the State of New Mexico and the State of New Mexico Corrections Department are hereby dismissed without prejudice.

DATED this 5th day of June, 1998.



John E. Conway
CHIEF UNITED STATES DISTRICT JUDGE

Counsel for Plaintiff: Melchior F. R. Savarese III, Esq.
Albuquerque, New Mexico

Counsel for Defendants: Paul M. Schneider
Legal Bureau/RMD
State of New Mexico
Santa Fe, New Mexico